

MEMORANDUM

Agenda Item No. 11(A)(15)

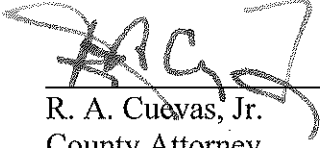
TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 3, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution directing the Mayor
to negotiate an interlocal
agreement with the City of
Miami Gardens regarding
the City of Miami Gardens
performing permitting of
Dolphin Stadium and
surrounding properties
within the City

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.



R. A. Cuevas, Jr.
County Attorney

RAC/smm




MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 3, 2014

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Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(15)
9-3-14

RESOLUTION NO. _____

RESOLUTION DIRECTING THE MAYOR OR MAYOR'S DESIGNEE TO NEGOTIATE AN INTERLOCAL AGREEMENT WITH THE CITY OF MIAMI GARDENS REGARDING THE CITY OF MIAMI GARDENS PERFORMING PERMITTING OF DOLPHIN STADIUM AND SURROUNDING PROPERTIES WITHIN THE CITY; WHERE SUCH INTERLOCAL WOULD INCLUDE A GRANT TO CITY OF MIAMI GARDENS OF MONIES FROM THE GENERAL FUND IN AN AMOUNT EQUIVALENT TO A CERTAIN PERCENTAGE OF THE COUNTY'S BUILDING PERMIT FEES FROM SUN LIFE STADIUM MODERNIZATION PROJECT; AUTHORIZING DISTRICT COMMISSIONER AND COMMISSIONER'S STAFF TO PARTICIPATE IN NEGOTIATIONS

WHEREAS, the City of Miami Gardens (the "City") was incorporated in 2003, and as part of that incorporation process, the Board of County Commissioners ("County Commission") placed the proposed City's Charter before the electorate in the area now known as the City of Miami Gardens; and

WHEREAS, Section 9.6 of the City's Charter contained certain pre-agreed conditions required by the County, as a condition of the incorporation of the City; and

WHEREAS, the City's electors approved Section 9.6 as part of their adoption by election of the proffered City Charter; and

WHEREAS, only the electors of the City have the power to approve an amendment to the City Charter pursuant to a duly-called election and other applicable requirements contained in the Miami-Dade County Home Rule Charter and the Code of Miami-Dade County; and

WHEREAS, pursuant to Section 9.6 of the City's Charter, Miami-Dade County (the "County") retained certain jurisdiction, such as jurisdiction for building permits, over the facility

currently known as SunLife Stadium and certain surrounding properties, as described in Appendix C to the City's Charter; and

WHEREAS, Section 9.6 of the City's Charter also provides that the County retains jurisdiction over the Dolphin Center Development of Regional Impact (DRI) Development Order, which covers the properties described in Appendix C as well as additional properties described in Appendix D of the City's Charter; and

WHEREAS, the County believes that, with the exception of the Dolphin Center Development of Regional Impact (DRI), the City has jurisdiction and the authority to issue building permits and regulate zoning on the properties described in Appendix D of the City's Charter; and

WHEREAS, the City wishes to have greater jurisdiction over SunLife Stadium and surrounding properties, as described in Appendix C of the City's Charter, and input into the Development of Regional Impact for properties as described in Appendices C and D; and

WHEREAS, the City recently sued the County and alleges, among other things, that Section 9.6 of the City's Charter is invalid and unconstitutional, and in the alternative, if Section 9.6 of the City's Charter is valid, then jurisdiction over the properties described in Appendix C and Appendix D of the City's Charter transferred to the City as of December 30, 2012 pursuant to the language of Section 9.6; and

WHEREAS, the County disagrees with the City's interpretation of Section 9.6; and maintains that pursuant to Section 9.6 of the City's Charter, the County has jurisdiction over the properties in Appendix C and jurisdiction over the Development of Regional Impact for the properties in Appendix D; and has asserted that, based on Section 6.05 of the Miami-Dade Home

Rule Charter, the Board of County Commissioners may not authorize the removal of Section 9.6 of the City's Charter without an amendment to the City's Charter; and

WHEREAS, Section 6.05 of the Miami-Dade County Home Rule Charter provides: "Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of the qualified municipal electors;" and

WHEREAS, notwithstanding the different positions of the County and the City, and irrespective of the lawsuit, the County Commission, in the interest of continuing its good relationship with the City and encouraging the continued growth of an important municipality within Miami-Dade County, wishes to enter into an interlocal agreement with the City regarding these matters; and

WHEREAS, such an interlocal agreement shall provide that, among other things, (1) Miami Dade County will process building permit applications for the properties described in Appendix C that have been submitted to the County as of the effective date of the interlocal agreement and any future building permit applications pertaining to the Sun Life Stadium "Modernization Project" as defined in the Performance-Based Marquee Event Grant Agreement between the County and Sun Life Stadium which was approved by the Board in Resolution No. R-560-14 (hereafter, "Sun Life Stadium Modernization Project"); and (2) the County shall give to the City of Miami Gardens a grant from the General Fund in an amount equivalent to thirty percent (30%) of the fees generated for building permits pertaining to the Sun Life Stadium Modernization Project; and (3) the City will issue building permits, other than permits

pertaining to the Sun Life Stadium Modernization Project, in accordance with the County's regulations and the County's fees, and receive all revenue from such permits for the properties described in Appendix C; and (4) agree that the City will have the opportunity to provide input into and the ability to appeal the County's Comprehensive Development Master Plan policies and Development of Regional Impact (DRI) decisions for the properties described in Appendix C and Appendix D of the City's Charter; and (5) the County will prepare, in consultation with the City, and consider an ordinance establishing a process for the City Council to issue a recommendation to the County Commission for any zoning application for properties described in Appendix C or any Development of Regional Impact application for properties described in Appendix C or Appendix D, and if the City Council recommends denial of such an application, the County Commission may only approve such an application by a two-thirds (2/3's) vote; and (6) the interlocal agreement shall automatically terminate upon the passage by the electorate of the City Charter Amendment as set forth below, or upon the striking of Section 9.6 through judicial process; and

WHEREAS, the City of Miami Gardens has adopted Resolution No. 2014-125-2104 placing a ballot question before its electors for the November 4, 2014 General Election that seeks to amend the City's Charter to remove Section 9.6 in its entirety ("City Charter Amendment") subject to a two-thirds vote of the Board of County Commissioners approving such an amendment and election, and that ballot question will be presented to this Board for approval in a separate resolution,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The above recitals are incorporated into this item.

Section 2. This Board directs the Mayor or Mayor's designee to negotiate an interlocal agreement, which shall contain the provisions in the above recitals, between Miami-Dade County and the City of Miami Gardens. The Mayor or Mayor's designee shall prepare this interlocal agreement for placement on the agenda of the appropriate County Commission committee within sixty (60) days of the date of this resolution and/or of the next available meeting of the Board of County Commissioners, subject to the applicable Rules of Procedure of the Board of County Commissioners.

Section 3. This Board hereby authorizes the County Commissioner for the district in which the subject property is situated and the respective Commissioner's staff to participate in the negotiations of the interlocal agreement and any potential settlement of the lawsuit, provided that such participation does not waive any requirement that the agreements be presented to this Board for approval.

The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman

Lynda Bell, Vice Chair

Bruno A. Barreiro

Jose "Pepe" Diaz

Sally A. Heyman

Jean Monestime

Sen. Javier D. Souto

Juan C. Zapata

Esteban L. Bovo, Jr.

Audrey M. Edmonson

Barbara J. Jordan

Dennis C. Moss

Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of September, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Craig H. Coller
Cynthia Johnson-Stacks
Abbie Schwaderer Raurell